

and rejects claims 7-12 under 35 U.S.C. §103(a) over Kurebayashi in view of U.S. Patent No. 5,291,470 to Nishiuchi et al. (Nishiuchi). These rejections are respectfully traversed.

As discussed in Applicants' August 6, 2007 Request for Reconsideration, Kurebayashi was filed in the United States on October 31, 2003. The present application claims priority to Japanese Patent Application No. 2002-364493 filed in Japan on December 16, 2002. To perfect priority, an English-language translation of the Japanese priority document was submitted with the August 6, 2007 Request for Reconsideration.

However, the Advisory Action states that the English translation did not perfect priority of the Japanese priority document because the English translation did not correspond to the specification filed in the U.S. on December 15, 2003. In particular, the Advisory Action states that Figs. 20A-C are not in the English translation, which correspond to the claim language "Pm, the second power level P1 being a crystallization level," as recited in claims 1, 15 and 25. Applicants respectfully disagree with these assertions.

MPEP §201.15 states that "the foreign application must be examined for the question of sufficiency of the disclosure under 35 U.S.C. §112, as well as to determine if there is a basis for the claims sought," emphasis added. That is, the standard for the determination is based on whether the claims in the U.S. are sufficiently disclosed by a foreign application, not whether the specification or claims of the U.S. application and foreign application are identical to each other.

The Japanese priority document discloses in paragraph [0064] that the laser power at the power level of P1 is radiated in the case of "0," the laser power at the power level of Pm is radiated in the case of "1," and the laser power level at the power of Ph is radiated in the case of "2" and that the portion on the information-recording medium 18-1, which is radiated with laser beam at the power level of P1, is changed to the crystal. Accordingly, the claim

language "Pm, the second power level P1 being crystallization level," as recited in claims 1, 15 and 25 of the U.S. application, is well supported in the Japanese priority document.

Figs. 20A-C are added in the U.S. specification only to make the application more easily understandable, and Figs. 20A-C are only supplemental explanation. However, as discussed above, claims 1, 15 and 25 in the U.S. application do not rely on Figs. 20A-C but is well supported in the Japanese specification and claims.

Accordingly, because the present claims are fully supported by the priority document and the filing date of the priority document precedes the filing date of Kurebayashi, Kurebayashi is not prior art under 35 U.S.C. §102.

Nishiuchi is only relied upon as teaching the recited adjustment of pulse width and varying the leading or trailing pulse.

Accordingly, claims 1, 2 and 5-26 are patentable over Kurebayashi and/or Nishiuchi. As such, withdrawal of the rejection is respectfully requested.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of the claims are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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Attachments:

Petition for Extension of Time  
Request for Continued Examination

Date: November 9, 2007

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